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ADMINISTRATION OF JUSTICE

Written statement*/ submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 June 2001]

*/ This written statement is issued, unedited, as received in English, from the submitting non-governmental organization(s).

GE. *200101402* LS

Administration of justice for East Timor

In response to the International Commission of Inquiry (ICI) on East Timor the UN Security Council stated on 18 February 2000 that the perpetrators of gross human rights violations in East Timor should be brought to justice "as soon as possible" and that Indonesia should "institute a swift, comprehensive, effective and transparent legal process, in conformity with international standards of justice and due process of law." In December 1999 three UN special rapporteurs on extrajudicial, summary or arbitrary executions, torture and violence against women recommended the establishment of an international tribunal if the trials in Indonesia would not have started within "a matter of months".

Unfortunately until today Indonesia seems unwilling or not able to pursue justice and to prosecute those responsible for gross human rights abuses and violations of the rules of war and international humanitarian law in East Timor. Many new legal obstacles to a fair and impartial prosecution have been introduced in Indonesia, since the Government of Indonesia's declaration that all perpetrators of human rights violations should be put on trial in Indonesia. In August 2000 a Constitutional amendment which introduced the principle of non-retroactivity into Indonesian law, offered the suspects lawyer's the opportunity to an absolute defense to charges relating to the crimes in East Timor. Furthermore the Attorney General failed to start the trials before a deadline provision in the Law on Human Rights Courts came into effect. The lack of an independent and impartial justice and of an effective witness protection programme documents that there are many obstacles to achieve accountability. Impunity prevails for high-ranking officers, such as General Wiranto and Major-General Zacky Anwar. We are especially concerned that President Wahid in his decree in April 2001 which established a human rights court for East Timor, limited this courts jurisdiction to crimes committed since the August 1999 vote. There will be no justice for the victims of gross and systematic human rights violations which have been committed before that vote. Our human rights organisation published in August 1999 a comprehensive report which documented the massive human rights violations which have been committed in the months before. Justice for East Timor is at a crossroads, because ignoring these massacres, politically motivated murders, crimes against humanity and other human rights violations would compromise any effort to achieve reconciliation in East Timor.

Justice is not a form of revenge, but an integral part of the reconciliation process. Administration of justice is an instrument of conflict resolution that precedes reconciliation. Regarding the unwillingness of the Government of Indonesia to achieve justice in East Timor the Society for Threatened Peoples calls upon the UN Sub-Commission on Human Rights to urge the UN Security Council to take immediate steps to establish an International ad hoc Tribunal on East Timor under Chapter VII of the UN Charter. Furthermore the Sub-Commission should appeal to the UN to provide more financial and professional support to East Timor judges, prosecutors and defenders.